

### **REMARKS**

Withdrawal of the final rejection, reconsideration and this application, and an indication of allowance is respectfully requested in view of the following remarks.

The claims pending in this application are claims 1-10, 12 and 13. All claims have been rejected.

The Examiner has rejected all the claims in this application under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 5,583,407 (Yamaguchi) in view of the 3D Zonemaster device described in various web pages previously cited by the examiner. This rejection is respectfully traversed.

The Examiner has considered the Yamaguchi device as properly combinable with the 3D Zonemaster. Applicant disagrees with this combination and in fact contends that a skilled artisan would not view these two devices as properly combinable. While the Examiner is correct that in column 7 beginning at line 62, the Yamaguchi patent does indicate that the device can be operated by hand, the complicated nature of the actions required by the controller of Yamaguchi make it completely inappropriate to combine this reference with the 3D Zonemaster and reject the claims of this application. In fact, the Examiner admits that there is no internal controller in Yamaguchi.

The controller of Yamaguchi requires a complicated series of motions to control the actor within the game system. These actions include moving the hand or foot up or down, left or right and in or out. While executing these complicated motions with either the hand or foot, the player simultaneously uses the other hand or one hand if using a foot controller to aim the pistol at various targets. This is a complicated and highly difficult series of maneuvers to execute at the same time and it is contended that a person looking at Yamaguchi would also recognize that the 3D controller requires the user to execute complicated motions to control the actor in a 3D game. Clearly there is no suggestion or disclosure that these complicated motions can be combined into an integral or single device. It is the Applicant's position that there is no *prima facie* case of obvious based on the combination of these two references. Indeed without the impermissible use of hindsight, there would be no reason to combine these widely divergent game controlling systems.

As previously discussed with the Examiner the 3D Zonemaster device is also a relatively complicated controller device, which uses ultrasonic triangulation to partially control the actor within a pistol game. Indeed the motions required to control an actor with the 3D Zonemaster device tends to replicate the complicated foot or hand movement of the Yamaguchi device by movements. Indeed the following remarks quoted from the review at [www.gamesdomain.co.uk](http://www.gamesdomain.co.uk) support this position. "Once activated the device becomes a wireless mouse that will not only track side-to-side movement and up or down movement (and everything in between) and also backwards and forward movement." The reviewer finds these movements very difficult to control the actor on the screen.

Further, there really is no disclosure of the specific functions of the integral controller that is located on the top of the 3D Zonemaster. It is contended that the specific disclosure of these two references, the Yamaguchi patent and the 3D Zonemaster, do not contain any disclosures and would not have led a person of ordinary skill in the art to provide an integrated controller device as required by the claims of the present application. For this reason, it is contended that the Examiner's rejection of all the claims under 35 U.S.C. §103 is inappropriate as being based on an improper combination based on a hindsight reconstruction of the Yamaguchi device combined with the 3D Zonemaster device.

The Examiner's attention is also directed to U.S. Patent 6,672,962. This patent recently issued at the U.S. Patent & Trademark Office has a foreign application priority date slightly before the priority date of the present application. The claims of the '962 patent are very similar to those now pending in the present application before the U.S. Patent & Trademark Office in the instant application. Applicant believes that applicant's date of invention in a WTO country is prior to the foreign priority application data of the '962 patent. An indication of allowability of the claims of the present application would enable the applicant to provoke an interference with the '962 patent to determine whether applicant or the patentee of the '962 patent have priority of invention in the United States.

For the above reasons it is respectfully intended that the instant rejection under 35 U.S.C. §103 is inappropriate and should be withdrawn. Should the Examiner determine that

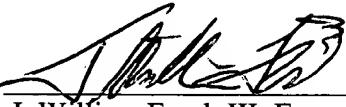
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the instant application be allowable but for the issuance of the '962 patent, an early indication of this is respectfully requested so applicant's can copy the claims and provoke and interference.

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